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FISCAL IMPACT REPORT

ORIGINAL DATE 1/19/2006
 LAST UPDATED 1/31/2006 **HB** 80/aHJC

SPONSOR Balderas

SHORT TITLE Equitable Sentencing Schedule **SB** _____

ANALYST McOlash

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 AGO Analysis of HJC/S HB 514 (2005 Session)

SUMMARY

<u>Synopsis of the HJC Amendment</u>
<p>The House Judiciary Committee (HJC) amended HB 80 to add the following provision:</p> <p style="text-align: center;">Regardless of value, whoever commits forgery of a will, codicil, trust instrument, deed mortgage, lien or any other instrument affecting title to real property is guilty of a 3rd degree felony.</p> <p>The HJC amendment strikes Section 18 relating to the penalties for writing bad checks and, apparently, a section relating to the 3rd degree felony relating to the exploitation of property.</p>

Synopsis of Original Bill

House Bill 80 (Equitable Sentencing Schedule), for the Courts, Corrections and Justice Committee, amends sections of NMSA 1978 to provide an equitable schedule of sentencing for certain criminal offenses. The bill redefines and/or defines the amount of financial damages necessary for levels of punishments.

House Bill 80 standardizes the levels of crime for a wide variety of financial crimes to make them consistent; and raises the levels at which misdemeanor financial crimes become felonies to compensate for the effect of inflation.

Please refer to the table attached, (based upon Tony Ortiz, staff attorney for the New Mexico Sentencing Commission, analysis of HB 514, 2005 Session, bill identical to HB80) which summarizes the 27 laws affected.

The effective date of the provisions of this act is July 1, 2006.

FISCAL IMPLICATIONS

House Bill 80 does not include an appropriation.

OTHER SUBSTANTIVE ISSUES

**EQUITABLE SENTENCY SCHEDULE
TABLE OF PROPOSED CHANGES**

Subject	Current Sanctions	Proposed Sanctions
Tax Fraud 7-1-73 NMSA 1978	Sentence of not less than six months and not more than three years. Fine of not more than \$5,000. Costs of prosecution.	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F Costs of prosecution.
Larceny 30-16-1 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F If property is livestock=3F When property taken is a fire-arm with value less than \$2,500=4F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F If property is livestock=3F When property taken is a fire-arm with value less than \$2,500=4F
Fraud 30-16-6 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F When property taken is a fire	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F When property taken is a fire-arm with value less than \$2,500=4F
Unlawful dealing in federal food coupons or WIC checks 30-16-7 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F
Embezzlement 30-16-8 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F

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<p>Forgery 30-16-10 NMSA 1978</p>	<p>Whoever commits forgery is guilty of a third degree felony.</p>	<p>No quantifiable damage or Less than \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>
<p>Receiving stolen property 30-16-11 NMSA 1978</p>	<p>\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F When property >\$2,500 is taken with a firearm =4F</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F When property >\$2,500 is taken with a firearm =4F</p>
<p>Falsely obtaining services or accommodations 30-16-16 NMSA 1978</p>	<p>\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>
<p>Improper disposal, sale, removal or concealing of encumbered property 30-16-18 NMSA 1978</p>	<p>\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>
<p>Shoplifting 30-16-20 NMSA 1978</p>	<p>\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F In consecutive 6 months</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F In consecutive 6 months</p>
<p>Fraudulent use of credit cards 30-16-33 NMSA 1978</p>	<p>Whoever commits fraudulent use of a credit card to obtain anything of value is guilty of a fourth degree felony >\$300=3F In consecutive 6 months</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F In consecutive 6 months</p>
<p>Fraudulent acts by merchants or their employees 30-16-34 NMSA 1978</p>	<p>Whoever commits fraudulent acts by merchants or their employees to obtain anything of value is guilty of a fourth degree felony >\$300=3F In consecutive 6 months</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F In consecutive 6 months</p>
<p>Receipt of property obtained in Violation of Sec. 30-16-36 30-16-36 NMSA 1978</p>	<p>\$100 or less=PM >\$100 but <\$300=4F \$300 or more=3F In consecutive 6 months</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F In consecutive 6 months</p>

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<p>Fraudulent acts to obtain or retain possession of rented or leased vehicle or other personal property 30-16-39 NMSA 1978</p>	<p>When the property is not a vehicle and has a value of \$100 or less=PM When the property is a vehicle or has a value of more than \$100=4F</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>
<p>Fraudulent refusal to return a leased vehicle or other personal property 30-16-40 NMSA 1978</p>	<p>When the property is not a vehicle and has a value of \$100 or less=PM When the property is not a vehicle and has a value of more than \$100 but less than \$2,500=4F When the property is a vehicle and has a value of less than \$2,500=4F When the property or vehicle has a value of \$2,500 or more=3F</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>
<p>Arson 30-17-5 NMSA 1978</p>	<p>\$100 or less=M >\$100 but NMT \$1000=4F >\$1000=3F</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>
<p>Procure or attempt to procure telecommunications service without paying charge 30-33-13 NMSA 1978</p>	<p>\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F</p>
<p>“Worthless checks” 30-36-5 NMSA 1978</p>	<p>When the value is more than \$1.00 but less than \$25.00=jail term of not more than 30 days and/or fine of NMT \$100 When the value is \$25.00 or more=term of imprisonment of not less than one year or more than three years and/or fine NMT \$1000</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F In consecutive 3 months</p>
<p>Failing to disclose facts or change of circumstances to obtain public assistance 30-40-1 NMSA 1978</p>	<p>\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F In consecutive 12 months</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F In consecutive 12 months</p>
<p>Unlawful use of food stamp identification card or medical identification card 30-40-2 NMSA 1978</p>	<p>\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F</p>	<p>\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F</p>

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	>\$20,000=2F	>\$20,000=2F
Misappropriating public assistance 30-40-3 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F
Failure to reimburse the human services department upon receipt of third party payment 30-40-6 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F
Computer access with intent to defraud or embezzle 30-45-3 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F
Computer abuse 30-45-4 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F
Unauthorized computer use 30-45-5 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F
Exploitation of a resident's property 30-47-6 NMSA 1978	\$100 or less=PM >\$100 but NMT \$250=M >\$250 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F
Fraudulent telemarketing 30-50-4 NMSA 1978	<\$250=M \$250 or more but <\$2,500=4F \$2,500 or more but <\$20,000=3F \$20,000 or more=2F	\$250 or less=PM >\$250 but NMT \$500=M >\$500 but NMT \$2,500=4F >\$2,500 but NMT \$20,000=3F >\$20,000=2F

Petty Misdemeanor (PM)=definite term not to exceed six months in jail

Misdemeanor (M)=definite term less than one year in jail

Fourth Degree Felony (4F)=eighteen months imprisonment

Third Degree Felony (3F)=three years imprisonment

Second Degree Felony (2F)=nine years imprisonment

TECHNICAL ISSUES

Issues related to HJC Amendment

The HJC amendment appears to contain incorrect references to the pages and sections of HB 80. The amendment (#1) calls for the insertion of the real property modification on page 10, between lines 12 and 13. The context of the bill suggests that it should be inserted on page 11, between lines 8 and 9 as E, with no renumbering.

Section 18 appears on pages 35 and 36, not 32 through 34.

The striking of lines 20 to 25 on page 49 may not be correct, considering the other errors.

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Continued inconsistency and disparity in financial crime categorization and punishment.

BM/nt